

1                   **TIME PERIOD FOR PAYING A TAX, INTEREST, OR**  
2                   **PENALTIES AFTER A JUDICIAL DECISION**

3                                   2013 GENERAL SESSION

4                                   STATE OF UTAH

5                                   **Chief Sponsor: Deidre M. Henderson**

6                                   House Sponsor: Mike K. McKell

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8                   **LONG TITLE**

9                   **General Description:**

10                   This bill amends the Judicial Review part to address the time period for paying a tax,  
11 interest, or penalties after a judicial decision.

12                   **Highlighted Provisions:**

13                   This bill:

- 14                   ▶ addresses the time period for paying a tax, interest, or penalties after a judicial
- 15 decision; and
- 16                   ▶ makes technical and conforming changes.

17                   **Money Appropriated in this Bill:**

18                   None

19                   **Other Special Clauses:**

20                   None

21                   **Utah Code Sections Affected:**

22                   AMENDS:

23                   **59-1-611**, as enacted by Laws of Utah 2006, Chapter 70

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25                   *Be it enacted by the Legislature of the state of Utah:*

26                   Section 1. Section **59-1-611** is amended to read:

27                   **59-1-611. Requirement to post security -- Waiver -- Payment of tax, interest, or**  
28 **penalties after judicial decision -- Interest.**

29                   (1) As used in this section, "post security" means:

30 (a) posting with the commission, for the full or a partial amount of the deficiency as  
31 determined by the commission:

- 32 (i) a letter of credit;
- 33 (ii) a bond; or
- 34 (iii) other similar financial instrument acceptable to the commission; or

35 (b) as determined by the commission, depositing with the commission:

- 36 (i) the full amount of the deficiency; or
- 37 (ii) a partial amount of the deficiency.

38 (2) Except as provided in Subsection (3), a taxpayer that seeks judicial review of a final  
39 commission redetermination of a deficiency shall post security with the commission.

40 (3) The commission shall waive the requirements of Subsection (2) if a taxpayer  
41 establishes:

42 (a) that the taxpayer has sufficient financial resources to pay the deficiency if the  
43 deficiency is upheld in a final unappealable judgment or order by a court of competent  
44 jurisdiction; or

45 (b) as determined by the commission, that collection of the deficiency that is the  
46 subject of the appeal is not jeopardized by waiving the requirements of Subsection (2).

47 (4) (a) The commission may not unreasonably deny a waiver described in Subsection  
48 (3).

49 (b) A taxpayer may seek judicial review of the commission's decision to deny a waiver  
50 under Subsection (3) by the court reviewing the redetermination of the deficiency.

51 (5) If a taxpayer fails to comply with the requirements of Subsection (2), the reviewing  
52 court may, in its discretion, dismiss the taxpayer's appeal of the redetermination of the  
53 deficiency.

54 (6) If the commission grants a waiver under Subsection (3), the taxpayer shall pay any  
55 tax, interest, or penalties:

- 56 (a) ordered by a court of competent jurisdiction; and
- 57 (b) within a ~~[45-day]~~ 30-day period beginning on the day on which the order described

58 in Subsection (6)(a) becomes final.

59           (7) If a taxpayer posts security with the commission, or the commission grants a waiver  
60 in accordance with this section, interest shall accrue on the unpaid taxes that are the subject of  
61 the deficiency at the rate and in the manner provided in Section 59-1-402.